IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.7408 of 1996

Between:

B. Krishna Rao, S/o. Narasanna,
R/o. Avanigadda, Krishna Dist.

..... PETITIONER

AND

1 The General Manager, Krishna Dist Co-operative Central Bank Ltd.,
Machilipatnam, Krishna.
2 The Primary Agricultural Co-op. Society, at Kottapet, Krishna District,

rep. by its President.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction particularly one in the nature of Writ of Certiorari by calling for the records relating to the impugned proceedings passed by the 1st respondent herein vide his proceedings in P.S.No.233/94-A2, dt.21.3.1996 and declare the same as illegal, arbitrary and without jurisdiction and justification.

Counsel for the Petitioner: MR.Y.RAMA RAO

Counsel for the Respondents: MR.B.ADINARAYANA RAO

The Court made the following:

ORDER:

The petitioner, who is the Secretary of 2nd respondent-Society, filed this writ petition challenging the proceedings of the 1st respondent-General Manager, Krishna District Co-operative Central Bank Limited, Machilipatnam in P.S.No.233/94-A2, dated 21.3.1996 dismissing him from the post of Secretary.

The case of the petitioner in brief is that he was appointed as a Paid Secretary in the year 1978 in Primary Agricultural Cooperative Society (PACS), Lingareddypalem, Krishna District and worked at different places. While so, in the year 1993 the first respondent has issued a memo to the petitioner calling upon his explanation for misappropriation of society funds while he was working as Secretary at Koduru, Kothapet, Tungalavaripalem and Lingareddypalem P.A.C.Ss. The petitioner has submitted his explanation. Being not satisfied with the explanation offered by the petitioner, the first respondent has initiated domestic enquiry by appointing an Enquiry Officer. Subsequently, the 1st respondent has issued another memo to the petitioner calling upon his explanation for temporary misappropriation and drawing of excess salary, and for not submitting the files and absconding from the duties. For the said charge memo the petitioner has submitted his explanation. Subsequently, basing on the reports of the Enquiry Officer the first respondent passed the impugned order dated 22.2.1996 dismissing him from the post of Secretary.

The grievance of the petitioner is that in the year 1985 all the secretaries who are working at that time in the P.A.C.Ss have become the permanent employees and as per Section 116-C (2) of the A.P. Cooperative Societies Act no appointment or removal of Chief Executives shall be made either by the General Manager or the President of the Krishna District Cooperative Central Bank without the prior approval of the Registrar of Co-operative Societies. That the General Manager is not vested with the powers of removal or dismissal and that he is only empowered to suspend, censure and withhold increments of the Secretaries. It is thus contended that the impugned order passed by the 1st respondent is without jurisdiction and contrary to the provisions of the A.P. Cooperative Societies Act and Rules framed thereunder.

A counter affidavit is filed by the first respondent stating that the petitioner had committed misappropriation all through his capacity in whichever Primary Agricultural Cooperative Society he was posted. Therefore, charge memos in P.S.No.238/93-A2, dated 6.2.1993, and in P.S.No.233/94-A, dated 17.10.1994 were issued to the petitioner and basing on the domestic enquiry report, a notice was

issued to the petitioner on 9.2.1995 to show cause as to why he should not be dismissed from service of the Society. Being not satisfied with the explanation offered by the petitioner, the President of the Bank who is
ex-officio Chairman of the Appointment Committee has dismissed the petitioner from service and the same was communicated by the General Manager to the petitioner.

The contention of the petitioner that on decaderisation, the Secretaries had become lifetime employees of the Society in which they are working was also denied and it is stated that after the decaderisation, the Secretaries have to be allotted by the Collector as per the guidelines under Rule 72 of the Rules and only after that allotment, they become permanent employees of the respective societies to which they are allotted. It is further stated that in respect of the Krishna District the allotment was not done owing to the stay orders of the Hon'ble High Court and hence the petitioner remains the cadre secretary under administrative control of the General Manager.

Heard the learned counsel for the petitioner and learned counsel for the respondents.

The impugned order shows that there are as many as 13 charges were proved against the petitioner and a large-scale misappropriation of funds taken place in the Society where the petitioner was involved and after conducting a detailed enquiry and taking into consideration of the material available on record, the impugned order is said to have been passed. Therefore, the only ground urged by the learned counsel for the petitioner that as per Section 116-C (2) of APCS Act the appointment or removal of Chief Executives should only be made with the prior approval of the Registrar of Cooperative Societies, cannot be accepted, for the reasons the provisions of Section 116-C of the APCS Act do not apply to the PACSs and the said provisions would apply only to certain types of Societies as specified under Rule 70-AA of the Rules. More over, in respect of Krishna District, the allotments were not made by the District Collector, and the petitioner remains under the category of Secretary under administrative control of the first respondent.

Having regard to the same, I see no grounds to interfere into this matter and the writ petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

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(N.V. RAMANA, J)

Date: 08.11.2004

Nsr/Tvk

To

1 The General Manager, Krishna Dist Co-operative Central Bank Ltd., Machilipatnam, Krishna.
2 The President, Primary Agricultural Co-op. Society,

at Kottapet, Krishna District,

3 Two CD copies.